APPEAL NO. 031871
FILED SEPTEMBER 5, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on June 16, 2003. The hearing officer resolved the disputed issues by deciding that the appellant's (claimant) compensable injury of _____, does not extend to and include degenerative changes to the cervical spine and lumbar spine; that the claimant reached maximum medical improvement (MMI) on November 2, 2002; and that the claimant's impairment rating (IR) is five percent. The claimant appeals the hearing officer's decision, contending that he is not at MMI, that the great weight of the medical evidence is contrary to the report of the designated doctor chosen by the Texas Workers' Compensation Commission (Commission), and that the designated doctor did not review the cervical and lumbar MRIs. The respondent (carrier) asserts that the evidence supports the hearing officer's decision.

DECISION

Affirmed as reformed herein.

Whether the claimant's compensable injury included degenerative changes to his cervical spine and lumbar spine presented a fact question for the hearing officer to resolve from the evidence presented. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's determination that the compensable injury does not extend to and include degenerative changes to the claimant's cervical spine and lumbar spine is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Texas 1986).

Sections 408.122(c) and 408.125(c) provide that the report of the designated doctor has presumptive weight and the Commission shall base its determinations of MMI and IR on the designated doctor's report unless the great weight of the other medical evidence is to the contrary. The designated doctor examined the claimant on November 6, 2002, and reported that the claimant reached MMI on November 6, 2002, with a five percent IR. After the designated doctor evaluated the claimant, the claimant underwent MRIs of the cervical spine and lumbar spine. The Commission sent the MRI reports of the cervical spine and lumbar spine to the designated doctor for his review, and the designated doctor replied that the MRI reports were consistent with his previous findings of MMI and IR and did not change those findings. The hearing officer found that the certifications of MMI and IR by the designated doctor are not against the great weight of the medical evidence, and concluded that the claimant reached MMI on November 2, 2002, with a five percent IR. We reform Findings of Fact Nos. 5 and 6, Conclusion of Law No. 3, and the hearing officer's decision to reflect that the designated

doctor certified that the claimant reached MMI on November 6, 2002 (not November 2, 2002), and that the claimant reached MMI on November 6, 2002 (not November 2, 2002). As reformed herein, we conclude that the hearing officer's determinations on the issues of MMI and IR are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain, *supra*.

As reformed herein, we affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

CT CORPORATION SERVICE
350 NORTH ST.PAUL STREET
DALLAS, TEXAS 75201.

_____
Robert W. Potts
Appeals Judge

CONCUR:

_____
Judy L. S. Barnes
Appeals Judge

_____
Thomas A. Knapp
Appeals Judge